

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

**FREDERICK DOBBINS AND
MARIANN DOBBINS**

Plaintiff

v.

GREAT NORTHERN INSURANCE COMPANY

Defendant

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CAUSE NO. 7:15-cv-88

DEFENDANT GREAT NORTHERN INSURANCE COMPANY'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Great Northern Insurance Company files this Notice of Removal Pursuant to 28 U.S.C. § 1446(a) and respectfully shows the Court the following:

Procedural Background

1. On July 6, 2012, Plaintiffs filed their Original Petition in the matter entitled Frederick Dobbins and Mariann Dobbins vs. Jessica Martinez, Jesus Martinez, and Great Northern Insurance Company, Cause No. C-1981-12-I, in the 398th Judicial District Court, Hidalgo County, Texas. Defendant Great Northern Insurance Company was served on July 17, 2012. Defendants Jessica and Jesus Martinez are residents of Hidalgo County, Texas. Plaintiffs did not allege a maximum amount of damages in controversy in their Original Petition.

2. On September 6, 2012, Plaintiffs filed their First Amended Original Petition. In the petition, Plaintiffs alleged that “[w]hile Plaintiffs’ total damages probably exceed \$1,500,000.00, in this lawsuit Plaintiffs seek . . . the \$1,000,000.00 that is the UIM coverage available under the Great Northern policy.”

3. Defendants Jessica Martinez and Jesus Martinez filed their Motion to Sever and Abate on April 11, 2013 alleging that the claims against Defendant Great Northern Insurance Company should be severed into a new cause number and abated pending the resolutions of the claims against Defendants

Jessica Martinez and Jesus Martinez. The Motion was heard by the Court on August 23, 2013. The trial court's ruling on this Motion was delayed until January 29, 2015.

4. On January 29, 2015, the trial court granted the Motion to Sever and Abate. An Order was issued by the 398th District Court effectively severing the lawsuit filed by Plaintiffs against Defendant Great Northern Insurance Company into Cause No. C-1981-12-I(A) in the 398th Judicial District Court, Hidalgo County, Texas. This new lawsuit was then abated until a judgment is entered in Cause No.C-1981-12-I.

5. The 398th Judicial District Court transferred the following documents into Cause No. C-1981-12-I(A): Plaintiffs' Original Petition filed on July 6, 2012; Defendant Great Northern Insurance Company's Original Answer filed on August 6, 2012; and Plaintiffs' First Amended Original Petition filed on September 6, 2012; among other documents.

6. Defendant Great Northern Insurance Company filed this Notice of Removal within thirty (30) days of the date of the Order severing and abating the lawsuit filed by Plaintiffs against Defendant Great Northern Insurance Company into Cause No. C-1981-12-I(A) in the 398th Judicial District Court, Hidalgo County, Texas.

Nature of Suit

7. This lawsuit involves a dispute over the payment of insurance benefits to the Plaintiffs to compensate them for personal injuries suffered by Plaintiff Frederick Dobbins arising out of an automobile accident that occurred on July 13, 2010. Plaintiffs seek benefits from a UIM insurance policy covering the vehicle that Plaintiff was riding in, and issued by Great Northern Insurance Company.

Diversity

8. Removal is proper under 28 U.S.C. § 1332 because there is complete diversity of citizenship. Plaintiffs are citizens of Connecticut. At the time Plaintiffs filed their Original Petition in

Hidalgo County, Great Northern Insurance Company was, and as of the date of this Notice of Removal remains, an Indiana entity with its principal place of business in Indiana.

Amount in Controversy

9. This Court has diversity jurisdiction over this matter because the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. Plaintiffs' live pleading conclusively establishes that the amount in controversy exceeds the Federal jurisdictional threshold of \$75,000.00.

Removal is Procedurally Correct

10. The causes of action asserted against Defendant Great Northern Insurance Company were transferred into a new cause number on January 29, 2015. At the same time, the 398th Judicial District Court transferred Plaintiffs' First Amended Original Petition into the new cause number. This petition served as the claim for relief on which Cause No. C-1981-12-I(A) is based. This Notice of Removal is filed within thirty (30) days of the transfer of Plaintiffs' First Amended Petition into Cause No. C-1981-12-I(A) as required by 28 U.S.C. § 1446(b).

11. Alternatively, pursuant to 28 U.S.C. § 1446(c)(1) and/or an equitable exemption, this Notice of removal is timely filed.

12. Venue is proper in this district under 28 U.S.C. § 1446(a) because this district and division embraces the place in which the removed action is pending and because a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this district and division.

13. Pursuant to 28 U.S.C. § 1446(a), all Pleadings, process and Orders in the State court action are attached to this Notice.

14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to the Plaintiffs promptly after Defendant Great Northern Insurance Company files this Notice.

15. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the District Clerk, Hidalgo County, Texas promptly after Defendant Great Northern Insurance Company files this Notice.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court remove the case to Federal Court and for such other and further relief to which Defendant may be justly entitled, whether at law or in equity.

Respectfully submitted,

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/s/ Jennifer Gibbins Durbin

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ATTORNEYS FOR DEFENDANT
GREAT NORTHERN INSURANCE COMPANY

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing ***Defendant Great Northern Insurance Company's Notice of Removal*** was electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following individual(s), on the 27th day of February, 2015.

Mr. Stephen G. Nagle
1002 West Avenue, First Floor
Austin, Texas 78701

/s/ Jennifer Gibbins Durbin

JENNIFER GIBBINS DURBIN
CLAY W. MORGAN